

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

TRUSTEES OF THE INTERNATIONAL
UNION OF OPERATING ENGINEERS
LOCAL 825 BENEFIT FUNDS,

Petitioners,

v.

TRICON ENTERPRISES, INC.,

Respondent.

Civil Action No. 22-2885 (MAS) (DEA)

MEMORANDUM ORDER

This matter comes before the Court on Petitioners Trustees of the International Union of Operating Engineers Local 825 Benefit Funds (“Petitioners”) Petition to Confirm Arbitration Award (“Petition”) (ECF No. 1) and Motion to Confirm Arbitration Award (“Motion”) (ECF No. 2). Respondent Tricon Enterprises, Inc. (“Respondent”) has not appeared in this action.

In a single Petition and Motion, Petitioners seek to confirm eighteen (18) independent arbitration awards, as set forth below.

Award Date	Delinquency Period	Principal Contributions	Interest	Liquidated Damages	Attorney's fees & costs	Arbitrator's fee	Total Due
5/18/21	10/1/19 – 10/2/19	\$0.00	\$13.68	\$2.73	\$2.05	\$800.00	\$818.46
7/20/21	8/13/20 – 8/19/20	\$1,609.13	\$21.21	\$321.82	\$198.41	\$800.00	\$2,950.57
7/20/21	3/18/21 – 3/24/21	\$582.70	\$7.68	\$116.54	\$87.40	\$800.00	\$1,594.32
7/20/21	3/25/21 – 3/31/21	\$582.70	\$7.68	\$116.54	\$87.40	\$800.00	\$1,594.32
8/24/21	4/15/21 – 4/21/21	\$874.05	\$12.12	\$174.81	\$124.90	\$800.00	\$1,985.88

Award Date	Delinquency Period	Principal Contributions	Interest	Liquidated Damages	Attorney's fees & costs	Arbitrator's fee	Total Due
8/24/21	4/22/21 – 4/28/21	\$874.05	\$12.12	\$174.81	\$124.90	\$800.00	\$1,985.88
1/18/22	9/9/21 – 9/15/21	\$5,558.83	\$71.38	\$1,111.76	\$593.38	\$800.00	\$8,135.35
1/18/22	9/16/21 – 9/22/21	\$5,405.21	\$69.41	\$1,081.04	\$578.02	\$800.00	\$7,933.68
1/18/22	9/23/21 – 9/29/21	\$4,503.76	\$57.83	\$900.75	\$487.87	\$800.00	\$6,750.21
1/18/22	9/30/21 – 9/30/21	\$900.74	\$11.56	\$180.14	\$127.57	\$800.00	\$2,020.01
2/15/22	10/01/21 – 10/06/21	\$4,803.91	\$60.04	\$960.78	\$517.89	\$800.00	\$7,142.62
2/15/22	10/07/21 – 10/13/21	\$6,175.38	\$77.19	\$1,235.07	\$655.03	\$800.00	\$8,942.67
2/15/22	10/14/21 – 10/20/21	\$6,457.34	\$80.71	\$1,291.46	\$683.23	\$800.00	\$9,312.74
2/15/22	10/21/21 – 10/27/21	\$6,343.71	\$79.29	\$1,268.74	\$671.87	\$800.00	\$9,163.61
2/15/22	10/21/21 – 10/27/21	\$506.70	\$6.33	\$101.34	\$76.00	\$800.00	\$1,490.37
3/22/22	11/4/21 – 11/10/21	\$8,673.96	\$114.36	\$1,734.79	\$904.89	\$800.00	\$12,228.00
3/22/22	11/11/21 – 11/17/21	\$1,802.18	\$23.76	\$360.43	\$217.71	\$800.00	\$3,204.08
3/22/22	11/25/21 – 12/01/21	\$3,603.01	\$47.50	\$720.60	\$397.80	\$800.00	\$5,568.91
Totals		\$59,257.00	\$773.85	\$11,854.15	\$6,536.32	\$14,400.00	\$92,821.68

The Federal Arbitration Act (“FAA”) provides, in relevant part, that:

If the parties in their agreement have agreed that a judgment of the court shall be entered upon *the award* made pursuant to the arbitration, and shall specify the court, then at any time within one year after *the award* is made any party to the arbitration may apply to the court so specified for an order confirming the award[.]

9 U.S.C. § 9 (emphasis added).

The plain language of the FAA is written in the singular, and Petitioners have not pointed to any authority that permits a court to sign off on multiple awards in one fell swoop. Petitioners did not file a legal brief in support of their application. Petitioners, instead, filed a Statement that

No Brief is Necessary (“Statement”). (Statement, ECF No. 2-1.) Even Petitioners’ Statement, however, is addressed in the singular. Specifically, Petitioners indicate that “there are no legal or factual issues in dispute and it does not appear that there is any question that the Arbitration Award at issue in this case may be confirmed and judgment entered.” (*Id.* (emphasis added).)

The Court further notes that the awards include:

- An \$818.46 award based on no underlying principal due.¹
- A separate award for a single day nested between two additional awards for consecutive weeks.²
- More than one award for the same week.³

Petitioners seek to confirm multiple arbitration awards, all but one of which cover a one-week period. Of the eighteen arbitration awards, twelve cover ten consecutive weeks.⁴ For each of the eighteen arbitration awards, the arbitrator received an \$800.00 arbitrator’s fee. Petitioners found that the underlying facts required eighteen separate arbitration proceedings (with many of the individual proceedings taking place on the same day) with corresponding attorney’s fees and arbitrator’s fees for each of the eighteen separate arbitration proceedings. The Court, therefore, is not clear why eighteen individual arbitration proceedings resulting in

¹ The award appears based on a \$13.68 interest balance to which Petitioners tacked on other fees, including the \$800 arbitrator’s fee.

² Petitioners seek to confirm an award based on the single day of September 30, 2021. This award is nested between awards for the weeks of September 23, 2021 to September 29, 2021 and October 1, 2021 through October 6, 2021. Each of these three awards assessed separate liquidated damages, attorney’s fees, and arbitrator’s fees.

³ Petitioners seek to confirm two separate awards for the week of October 21, 2021 through October 27, 2021.

⁴ This accounts for the single-day arbitration award and two arbitration awards for the same week.

eighteen individual arbitration awards are appropriate for resolution in a single Petition and Motion. The Court, consequently, finds good cause to deny Petitioners' Motion without prejudice and to require Petitioners to file a legal brief and supplemental certification.

IT IS, on this 28th day of December 2022, **ORDERED** as follows:

1. Petitioners' Motion to Confirm Arbitration Award (ECF No. 2) is **DENIED** without prejudice.
2. Petitioners shall file a legal brief and supplemental certification by **January 27, 2023.**⁵
3. Petitioners shall serve a copy of the legal brief and supplemental certification upon Respondent and e-file proof of service.

s/ Michael A. Shipp

MICHAEL A. SHIPP

UNITED STATES DISTRICT JUDGE

⁵ The legal brief shall cite: (1) relevant legal authority for the Court to confirm multiple arbitration awards in a single petition and motion; and (2) other cases in which a court confirmed multiple arbitration awards in a single petition and motion. The legal brief shall also show cause as to why the Court should not sever the cases into individual petitions.